

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SANDY SMITH, <i>et al.</i> , Plaintiffs, v. MERIAL LIMITED, Defendant.	Civil Action No. 10-439(WJM)(MF)
BRIAN McDONOUGH, <i>et al.</i> , Plaintiffs, v. BAYER HEALTHCARE, LLC, Defendant.	Civil Action No. 10-442(WJM)(MF)
AUNDRIA ARLANDSON, <i>et al.</i> , Plaintiffs, v. HARTZ MOUNTAIN CORPORATION, <i>et al.</i> , Defendants.	Civil Action. No. 10-1050(WJM)(MF)
KRISTY SNYDER, <i>et al.</i> , Plaintiffs, v. FARNAM COMPANIES, INC., <i>et al.</i> , Defendants.	Civil Action No. 10-1391(WJM)(MF)

SUNNY JOHANSSON, *et al.*,

Plaintiffs,

v.

CENTRAL GARDEN & PET COMPANY, *et al.*,

Defendants.

Civil Action No. 10-6372(WJM)(MF)

LYNDA FROST, *et al.*,

Plaintiffs,

v.

FIDOPHARM, INC., *et al.*,

Defendants.

Civil Action. No. 11-6976(WJM)(MF)

CONSENT ORDER REGARDING LIMITED DISCOVERY

THIS MATTER having been brought before the Court by Plaintiffs and Defendants to these consolidated actions (the “Actions”) through their undersigned counsel; and

WHEREAS on February 4, 2013 this Court scheduled an in-person status conference in the Actions (Dkt. No. 144)¹; and

WHEREAS on February 26, 2013 counsel appeared before the Hon. William J. Martini, U.S.D.J. for the status conference. During that status conference, Judge Martini advised the parties that they were to engage in limited discovery the scope and duration of which they were to meet-and-confer regarding and report back to the Court (Dkt. No. 145);

¹ All references to docket entries are from the *Arlandson* action (Civ. No. 10-1050). Each of the Actions has a similar entry on its docket.

WHEREAS the parties met-and-conferred regarding the scope and duration of the limited discovery and determined that they needed additional time to complete the meet-and-confer process. Accordingly, the parties sought, and the Court granted them an additional time to report back to the Court regarding the scope and duration of the limited discovery; and

WHEREAS the parties have completed the meet-and-confer process and have agreed on the scope and duration of the limited discovery ordered by the Court; and the Court having reviewed the submission of counsel, and for good cause shown,

IT IS HEREBY ORDERED on this 19th day of March, 2013, as follows:

1. Plaintiffs have requested production of the following information in categories (a) through (d) below (the “Discovery Request”), and the non-retail defendants (the “Product Defendants”)² have agreed to produce certified responses and documents setting forth the requested information or appropriate objections within the time provided in Paragraph 2 below which are within the Production Request. Neither side shall be prejudiced by the production or lack thereof of any information or documents. Subject to Paragraph 2 below, Product Defendants shall provide:

- a. Information regarding the total units sold by the Product Defendants of the products Plaintiffs allege in their current respective operative complaints in the above captioned actions to have purchased in the United States for the period January 1, 2010 to December 31, 2012, and setting forth the gross revenue from such sales broken down to the extent practicable by individual product and by year;
- b. Summary information regarding safety-related adverse events in animals in the United States related to the products Plaintiffs allege

² The “Product Defendants” shall be comprised of Merial Limited, Bayer Healthcare, LLC, Hartz Mountain Corp., Farnam Companies, Inc., Wellmark, Fidopharm, Sergeant’s Pet Care Products, Inc., Summit Vetpharm, LLC, and Velcera, Inc.

in their Complaint to have purchased for the period January 1, 2010 to December 31, 2012;

- c. Information submitted by the Product Defendants to the EPA regarding safety-related adverse events in animals in the United States related to the products Plaintiffs allege in their Complaint to have purchased for the period January 1, 2010 to December 31, 2012; and
- d. Information regarding the existence and terms of any voluntary reimbursement policies or programs in effect for the Product Defendants in the United States related to the products Plaintiffs allege in their Amended Complaint to have purchased for the period January 1, 2010 to December 31, 2012.

2. Defendants shall ~~commence~~^{begin} serving responsive material to the Discovery Request within thirty (30) days of the date hereof, and complete production of all additional responsive material within sixty (60) days of the date hereof.

3. In any action where there is more than one Product Defendant, the Product Defendants' responsive material, if any, shall be served only on Plaintiffs' counsel and not on any other Defendant.

4. Each party shall submit a memorandum to the Court following the conclusion of this limited discovery period, setting forth their position as to the respective actions including what the discovery reveals and what course the litigation should take. These memoranda are to be no longer than five pages each and should be submitted to Chambers on or before June 10th, 2013.

5. The Court shall hold a status conference on June 15, 2013, @ 11 AM to discuss the status of these Actions and what further proceedings, if any, may be appropriate.

6. A copy of this Order shall be served on all counsel of record via ECF.

IT IS SO ORDERED.



WILLIAM J. MARTINI, U.S.D.J.

Dated: March [19th], 2013

CONSENTED AND AGREED TO BY:

<p>CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO</p> <p><u>/s/ James E. Cecchi</u> James E. Cecchi Lindsey H. Taylor 5 Becker Farm Road Roseland, New Jersey 07068 (973) 994-1700</p> <p>Attorneys for Plaintiffs (Arlandson/Johansson/ Cedeno/Shelby/Walsh/Ainsley)</p>	<p>GREEN & ASSOCIATES, LLC</p> <p><u>/s/ Michael S. Green</u> Michael S. Green 522 Route 18, P.O. Box 428 East Brunswick, New Jersey 08816 (732) 390-0480</p> <p>Attorneys for Plaintiffs (Arlandson/Smith/ McDonough/Snyder/Frost/Valentine)</p>
<p>KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.</p> <p><u>/s/ Gary S. Graifman</u> 210 Summit Avenue Montvale, New Jersey 07645 (201) 391-7000</p> <p>Attorney for Plaintiffs (Arlandson/Smith/McDonough/Snyder/Frost/ Valentine)</p>	<p>COHN LIFLAND PEARLMAN HERRMANN & KNOPFF</p> <p><u>/s/ Jeffrey W. Hermann</u> Jeffrey W. Hermann Park 80 Plaza West-One Saddle Brook, New Jersey 07663 (201) 845-9600</p> <p>Attorneys for Plaintiffs (Arlandson/Smith/McDonough/Snyder/Frost/ Valentine)</p>

<p>DIAMOND LAW OFFICE, LLC</p> <p><u>/s/ Paul Diamond</u> Paul Diamond 1605 John Street, Suite 102 Fort Lee, New Jersey 07024 (201) 242-1110</p> <p>Attorney for Plaintiffs (Arlandson/Smith/McDonough/Snyder/Frost/ Valentine)</p>	
<p>LOWENSTEIN SANDLER, LLP</p> <p><u>/s/ Alan Stuart Modlinger</u> Gavin J. Rooney Kristin Muir 65 Livingston Avenue Roseland, NJ 07666 (973) 597-2434</p> <p>Attorney for Defendants (Merck/Merck)</p>	<p>COUGHLIN DUFFY LLP</p> <p><u>/s/ Kelly A. Waters</u> Kelly A. Waters Timothy P. Smith 350 Mount Kemble Avenue Morristown, NJ 07962 (973) 631-6016</p> <p>Attorneys for Defendants (Farnam/Wellmark/ Central Garden)</p>
<p>COUGHLIN DUFFY LLP</p> <p><u>/s/ Lorna A. Dotro</u> Lorna A. Dotro Mark K. Silver 350 Mount Kemble Avenue Morristown, NJ 07962 (973) 631-6016</p> <p>Attorney for Defendants (Bayer)</p>	<p>SILLS CUMMIS & GROSS P.C.</p> <p><u>/s/ Beth S. Rose</u> Beth S. Rose Vincent Lodato One Riverfront Plaza Newark, New Jersey 07102 (973) 966-8406</p> <p>Attorneys for Defendants (Fidopharm/Velcera/Wal-Mart)</p>
<p>BLOOM & DILLON, P.C.</p> <p><u>/s/ Paul J. Dillon</u> Paul J. Dillon 70 South Orange Avenue, Suite 240 Livingston, NJ 07039 (973) 758-0900</p> <p>Attorney for Defendants (Sergeant's, Target and PetSmart)</p>	<p>HINSHAW & CULBERTSON LLP</p> <p><u>/s/ Daniel E. Tranen</u> Daniel E. Tranen Geoffrey M. Coan 28 State Street 4th Floor Boston, MA 02109-1775 (617) 213-7000</p> <p>Attorneys for Defendants (Summit VetPharm)</p>

KELLEY DRYE & WARREN LLP

/s/ Geoffrey W. Castello

Jonathon K. Cooperman

Geoffrey W. Castello

200 Kimball Drive

Parsippany, NJ 07054

(973) 503-5900

Attorney for Defendants (Hartz and Wal-Mart)